REMARKS

The Office Action of August 27, 2004 required restriction to one of three groups of claims: Claims 1-8 and 14-19 (Group I) drawn to methods for producing intervertebral disc tissues and for repairing intervertebral disc damage, claims 9-13 (Group II) drawn to a cohesive engineered intervertebral disc tissue, and claim 20 (Group III) drawn to a kit for producing intervertebral disc tissue. Applicants respectfully traverse the restriction requirement imposed on the application and request that Groups I and II be examined together.

As stated in the Office Action, MPEP § 806.05(f) allows restriction if the process as claimed can be used to make other or materially different products. However, regardless of use of the method claims of Group I to make intervertebral tissue different from the tissue claimed in Group II, searching the two groups together will not be a serious burden on the Examiner. Because the claimed inventions of Groups I and II are closely related, they should be examined together. MPEP § 803 states:

> If the search and examination of an entire application can be made without serious burden, the examiner **must** examine it on the merits, even though it includes claims to independent or distinct inventions. (emphasis added).

The claimed inventions of Groups I and II each claim a cohesive (coherent), engineered intervertebral disc tissue. Because the Examiner must search cohesive, engineered intervertebral disc tissue under the claims of Group I, any search of Group I will therefore necessarily be coextensive with a search of Group II. Hence, applicants submit that the search and examination of Groups I and II together do not present a serious burden for the Examiner. Consequently, applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement between Groups I and II.

Respectfully submitted,

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